

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL LANTINO, JOANNE
CABELLO on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

CLAY LLC, THE GYM AT GREENWICH,
LLC, THE GYM AT PORT CHESTER
INC., THE GYM AT UNION SQUARE,
LLC, SETH HIRSCHER, STEFAN
MALTER, and BARNET LIBERMAN,

Defendants.

No.: 1:18-cv-12247 (SDA)

CONSENT JUDGMENT

WHEREAS, Plaintiffs Michael Lantino and Joanne Cabello ("Plaintiffs") filed the December 27, 2018 Complaint against Clay LLC, The Gym at Greenwich, LLC, The Gym at Port Chester Inc., The Gym at Union Square, LLC, Seth Hirschel, Stefan Malter and Barnet Liberman ("Defendants") (the "Complaint"), which seeks damages against Defendants alleging Defendants (i) failed to pay them overtime premium pay, violating the Fair Labor Standards Act and New York Labor Law, (ii) failed to pay them their regular wages, violating the FLSA and Labor Law, (iii) failed to timely pay them their wages, violating the FLSA and Labor Law, (iv) failed to provide him with the Notice and Acknowledgement of Payrate and Payday under N.Y. Lab. Law § 195.1, and (v) failed to provide him with the wage statements required under N.Y. Lab. Law § 195.3.

WHEREAS, Plaintiffs and Defendants (collectively "Parties") agreed to resolve their claims after settlement negotiations and a Court-facilitated settlement conference and entered into a Settlement Agreement on October 3, 2019 (the "Agreement");

WHEREAS, the Parties agreed in the Agreement that Defendants shall make 25 payments to Plaintiffs and The Goldring Firm ("Plaintiffs' Counsel"), totaling \$300,000.00 (the "Settlement Payment");

WHEREAS, the Parties agreed to Defendants entering into this Consent Judgment to provide relief to Plaintiffs for breaching the terms of the Agreement;

WHEREAS, Defendants have failed after written notice to comply with the terms of the Agreement and are in "Default" under the Agreement;

WHEREAS, Defendants have consented to entry of this Consent Judgment without trial or adjudication of any issue of fact or law and to waive any appeal if the Consent Judgment is entered as submitted by the Parties;

WHEREAS, Plaintiffs' intent in effecting this settlement is to remediate harms resulted from Defendants' unlawful conduct, as alleged in the Complaint, and Defendants breaching the Agreement;

NOW THEREFORE, without trial or adjudication of issue of fact or law, and upon Defendants' consent, the Court finds that there is good and sufficient cause to enter this Consent Judgment, and that it is therefore ORDERED, ADJUDGED, AND DECREED:

1. JURISDICTION. This Court has jurisdiction over this subject matter of this action under 28 U.S.C. §§ 1331, 1337, and 1343, and supplemental jurisdiction over Plaintiff's state law claims under 28 U.S.C. §§ 1332 and 1367. The Complaint states a claim upon which relief may be granted against Defendants.

2. FINANCIAL TERMS.

a. To date, Defendants have paid \$ 76,086.49 of the Settlement Payment. Defendants and their affiliated entities accordingly shall pay to Plaintiffs and Plaintiffs' Counsel the total sum of \$ 923,913.51, which is \$1,000,000.00 less any and all payments Defendants already made to Plaintiffs and their counsel under the Agreement. Defendants shall make payment no later than 7 calendar days after the Effective Date of this Consent Judgment.

b. Defendants shall be jointly and severally liable to pay the payment set forth in Paragraph 2.a.

3. OTHER TERMS.

a. This Court retains jurisdiction for the duration of this Consent Judgment to enforce its terms. The Parties may jointly seek to modify the terms of this Consent Judgment, subject to the approval of this Court. This Consent Judgment may be modified only by Court order.


b. The Effective Date of this Consent Judgment shall be the date on which the Court enters the Consent Judgment.

c. This Consent Judgment shall remain in full force and effect until Defendants complete their obligations under the Consent Judgment, at which time the Consent Judgment shall expire.

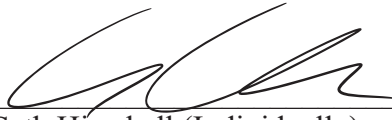
AGREED TO AS TO FORM AND CONTENT:

THE GYM AT GREENWICH, LLC, THE
GYM AT PORT CHESTER INC., THE
GYM AT UNION SQUARE, LLC

Date: _____
September __, 2019

By: 
Seth Hirschel

Date: _____
September __, 2019

By: 
Seth Hirschel (Individually)
[signature on next page]

Date: _____
September __, 2019

By: _____
Stefan Malter (Individually)

Date: _____
September __, 2019

[signature on next page]
By: _____
Barnett Liberman (Individually)

AGREED TO AS TO FORM AND CONTENT:

THE GYM AT GREENWICH, LLC, THE
GYM AT PORT CHESTER INC., THE
GYM AT UNION SQUARE, LLC

Date: _____
September __, 2019

By: [signature on prior page]
Seth Hirschel

Date: _____
September __, 2019

By: [signature on prior page]
Seth Hirschel (Individually)

Date: _____
September __, 2019

By: [signature]
Stefan Malter (Individually)

Date: NOVEMBER 5
~~September~~ __, 2019

By: [signature]
Barnett Liberman (Individually)

SO ORDERED:

Dated: New York, New York

May 8, 2020

Steward D. Aaron

The Honorable Steward D. Aaron, U.S.M.J
Stewart